

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-CR-00032-RJC

USA

v.

EDGAR NOE BORJAS HERNANDEZ

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on Amendment 821 to the United States Sentencing Guidelines. (Doc. No. 16).

Part A of the Amendment is retroactive and amended USSG §4A1.1 to limit the impact of status points on criminal history category. USSG §1B1.10(d), comment. (n.7). Part B, Subpart 1 of the Amendment is retroactive and created a two-level decrease if a defendant meets all the criteria in USSG §4C1.1(a), including having zero criminal history points. USSG §1B1.10(d), comment. (n.7).

Although the defendant asserts that he has no criminal history points, the Court determined he had eleven criminal history points, two of which were status points. (Doc. No. 10: Presentence Report ¶¶ 26-28). The Amendment does not lower his applicable guideline range because he remains in Criminal History Category V with ten points. USSG Ch.5, Pt.A (sent. table). Accordingly, he is not eligible for relief. USSG §1B1.10(a)(2)(B).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

Signed: September 30, 2024



Robert J. Conrad
United States District Judge